

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6677 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

MISRA MOHAMMED SUMRA

Versus

STATE OF GUJARAT

Appearance:

MR.H.R.PRAJAPATI FOR M/S THAKKAR ASSOC. for Petitioner
MR.NEEGAM SHUKLA, AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 25.4.1996 passed by the District Magistrate, Surat whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 8.6.1996 and since then the petitioner is under detention lodged at Porbandar Special Jail.

This Special Civil Application was filed in this Court on 2.9.1996 and on 3.9.1996 Rule returnable for 1.10.1996 was issued but so far no reply or affidavit of the Detaining Authority has been filed.

The grounds of detention enclosed with the detention order show that six criminal cases for the offences under Indian Arms Act were registered against the petitioner. Besides this the Detaining Authority has taken into consideration the statements made by three witnesses with regard to the incident dated 13.4.1996. The petitioner has been found to be dangerous person and has been accordingly detained. The detention order has been challenged on more than one grounds but the learned counsel for the petitioner has stressed that no case of breach of public order is made out. In view of the Supreme Court decision in the case of M.J.Shaikh Vs.M.M.Mehta reported in 1995(2) GLR Pg.1268, it is clear that the allegation and material relied upon by the Detaining Authority against the petitioner do not constitute a case of breach of public order, at the most it is a breach of law and order, therefore, the order of detention deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned order of detention dated 25.4.1996 passed by the District Magistrate, Surat is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
